TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 1699 - SB 1892

March 3, 2020

SUMMARY OF ORIGINAL BILL: Requires a health insurance entity to reimburse a facility hosting a patient for a telehealth encounter an originating site fee in accordance with applicable rules and amounts established by the Centers for Medicare and Medicaid Services (CMS). Adds a private location the patient deems appropriate to receive their healthcare services that is equipped to engage in telecommunication as a location a patient may receive provider-based telemedicine services and requires an in-person encounter between the healthcare service provider, the provider's practice group, or the healthcare system and the patient within 24 months prior to a telehealth encounter prior to the provider-based telemedicine service. Requires a health insurance entity to consider any remote patient monitoring (RPM) service a covered service if the same service is covered by Medicare. The proposed legislation takes effect July 1, 2021 and applies to insurance policies or contracts issued, entered into, renewed, or amended on or after that date.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – $1,139,300/FY21-22
$1,154,200/FY22-23 and Subsequent Years

Increase Federal Expenditures – $2,170,600/FY21-22 and Subsequent Years

Increase Local Expenditures – Exceeds $2,900/FY21-22*
Exceeds $5,900/FY22-23 and Subsequent Years*

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue - Exceeds $3,312,800/FY21-22 and Subsequent Years

Increase Business Expenditures –
Less than $3,312,800/FY21-22 and Subsequent Years

SUMMARY OF AMENDMENT (015470): Deletes and rewrites all language after the enacting clause such that the only substantive changes are:

- Requires a health insurance entity to reimburse an originating site hosting a patient as part of a telehealth encounter an originating site fee in accordance with CMS telehealth services rule 42 C.F.R. § 410.78 and at the amount established by CMS.

- Tenn. Code Ann. § 56-7-1003(6) defines “provider-based telemedicine” as the use of Health Insurance Portability and Accessibility Act (HIPAA) (42 U.S.C. § 1320d et seq.) compliant real-time, interactive audio, video telecommunications, or electronic technology, or store-and-forward telemedicine services, used over the course of an interactive visit by a healthcare services provider to deliver healthcare services to a patient within the scope of practice of the healthcare services provider when certain criteria are met. States that it does not include an audio-only conversation; an electronic mail message or phone text message; a facsimile transmission; remote patient monitoring; or healthcare services provided pursuant to a contractual relationship between a health insurance entity and an entity that facilitates the delivery of provider-based telemedicine as the substantial portion of the entity's business.
- Requires an in-person encounter between the healthcare service provider, the provider’s practice group, or the healthcare system and the patient within 18 months prior to a telehealth encounter prior to the provider-based telemedicine service;
- Requires a health insurance entity to provide coverage and reimbursement for healthcare services provided during a provider-based telemedicine encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service; and
- Declares nothing requires a healthcare services provider to submit a claim for reimbursement to a health insurance entity for provider-based telemedicine services.
- Exempts a health incentive program operated by a health insurance entity that utilizes an electronic device for physiological monitoring from being considered remote patient monitoring services required to be covered if the same service is covered by Medicare.
- Defines “telehealth”, “telemedicine” and “provider-based telemedicine” notwithstanding any restriction imposed by Tenn. Code Ann. § 56-7-1002 or § 56-7-1003, as the use of real-time audio, video, or other electronic media and telecommunication technology that enables interaction between a healthcare provider and a patient; or store-and-forward telemedicine services, as defined in Tenn. Code Ann. § 56-7-1002, for the purpose of diagnosis, consultation, or treatment of a patient in another location where there may be no in-person exchange.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - $1,196,700/FY21-22
$1,211,600/FY22-23 and Subsequent Years

Increase Federal Expenditures -$2,281,400/FY21-22 and Subsequent Years

Increase Local Expenditures – Exceeds $2,900/FY21-22*
Exceeds $5,900/FY22-23 and Subsequent Years*

Assumptions for the bill as amended:

Division of TennCare:

- Currently, the total TennCare population is eligible for telemedicine coverage at certain qualifying sites. Based on information provided by the Division, there were 22,213 telehealth visits in FY16-17 and 40,495 telehealth visits in FY18-19. Assuming a similar increase in trend, it is presumed there will be approximately 73,975 telehealth visits in FY21-22 under current law.
- It is assumed these individuals have all had an in-person encounter with a healthcare service provider within 18 months prior to a telehealth encounter and the individual will pay an originating site fee consistent with CMS rates that are currently set at $26.65 per visit.
- The proposed legislation adds a private location an enrollee deems appropriate for telehealth services as a qualified location, therefore, it is estimated there will be an increase in utilization of 15 percent.
- The recurring increase in expenditures is estimated to be $295,715 [(73,975 telehealth visits x 15.0%) x $26.65]
- The number of TennCare enrollees with at least one chronic disease is estimated to be 57 percent of the estimated FY21-22 TennCare population, or 703,878 (1,234,873 total enrollees x 57.0%).
- The net user fee per year for RPM is estimated to be $150 ($1,500 - $1,350) based on $1,500 cost per year and a 90 percent, or $1,350 ($1,500 x 90.0%) return on investment.
- Assuming 3 percent of enrollees, or 21,116 (703,878 x 3.0%), will participate in RMP services, the recurring increase in expenditures is estimated to be $3,167,400 (21,116 enrollees x $150).
- The total recurring increase in expenditures for the Division is estimated to be $3,463,115 ($295,715 + $3,167,400).
- Currently, Medicaid expenditures receive matching funds at a rate of 65.878 percent federal funds to 34.122 percent state funds. This is assumed to remain constant for purposes of this analysis.
- Of this amount, $1,181,684 ($3,463,115 x 34.122%) will be state funds in FY21-22 and subsequent years and $2,281,431 ($3,463,115 x 65.878%) will be federal funds in FY21-22 and subsequent years.

Benefits Administration:

- Proposed Tenn. Code Ann. § 56-7-1018 regarding RPM services does not have ERISA exemption language and would apply to the State Group Insurance Program. The proposed legislation will impact the state plan that begins January 1, 2022.
- The estimated cost for onboarding a new patient for RPM services is estimated to be $18.10. The net user fee per year for RPM is estimated to be $72 ($720 - $648) based on $720 cost per year and a 90 percent, or $648 ($720 x 90.0%) return on investment.
- The State Employee Plan has 15,781 eligible enrollees, the Local Education Plan has 9,638 eligible enrollees and the Local Government Plan has 3,252 eligible enrollees for RPM.

- It is estimated 2 percent of enrollees on each plan will participate in RPM services: 316 enrollees in the State Employee Plan, 193 enrollees in the Local Education Plan, and 65 enrollees in the Local Government Plan.
- The cost estimates for the State Employee Plan is estimated to be $28,472 [316 enrollees x ($18.10 + $72), $17,389 [193 enrollees x ($18.10 + $72)], and $5,857 [65 enrollees x ($18.10 + $72)].
- According to Benefits Administration, the state contributes 80 percent of member premiums, resulting in a recurring increase in state expenditures of $22,778 ($28,472 x 80.0%) in FY22-23 and subsequent years.
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members), resulting in state expenditures of at least $7,173 [($17,389 x 75.0% x 45.0%) + ($17,389 x 25.0% x 30.0%)] in FY22-23 and subsequent years.
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $5,857 in FY22-23 and subsequent years.
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total increase in local expenditures is estimated to exceed the $5,857 increase to the state plan in FY22-23 and subsequent years.
- The increase in state expenditures in is estimated to be $14,976 [($22,778 + $7,173) x 50.0%] in FY21-22.
- The increase in local expenditures is estimated to exceed $2,929 ($5,857 x 50.0%) in FY21-22.

Total State:

- The total increase in state expenditures is estimated to be $1,196,660 ($1,181,684 + $14,976) in FY21-22.
- The total increase in state expenditures is estimated to be $1,211,635 ($1,181,684 + $22,778 + $7,173) in FY22-23 and subsequent years.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Increase Business Revenue –
Exceeds $3,481,000/FY21-22 and Subsequent Years

Increase Business Expenditures –
Less than $3,481,000/FY21-22 and Subsequent Years

Assumptions for the bill as amended:

- Healthcare providers will experience a recurring increase in business revenue for providing services estimated to be $3,481,020 ($1,196,660 + $2,281,431 + $2,929) in FY21-22 and subsequent years.
- The recurring increase in business expenditures is estimated to be less than $3,481,020 in FY21-22 and subsequent years for companies to retain solvency.
- The effect upon other private insurance carriers will be dependent upon various unknown factors subject to the rates and contractual agreements comprising each individual policy of healthcare.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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